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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,718	01/12/2001	Carol Jane Batman	5727-65998	8938
49437	7590	07/02/2007		
BARNES & THORNBURG LLP 11 SOUTH MERIDAN STREET INDIANAPOLIS, IN 46204			EXAMINER VU, THONG H	
			ART UNIT	PAPER NUMBER
			2616	
			MAIL DATE	DELIVERY MODE
			07/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 09/555,718	Applicant(s) BATMAN ET AL.	
	Examiner Thong H. Vu	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1-32 are pending. Claim 1 has been amended. The Final is appropriate.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/23/07 has been entered.

Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Goodman [5,307,263].

3. As per claim 1, Goodman discloses a method of configuring a hand-held instrument having on-board circuitry for determining the concentration of a medically significant component of a body fluid or a control and producing an electrical signal representative thereof, [Goodman, hand held instrument or portable device, col 4 lines 23-37; on-board circuitry or adapters generate the alerts or signal, col 5 lines 42-55], the method comprising the steps of providing a configuring computer having a first port for transmitting at least one of instructions and data for configuring the instrument [Goodman, the host computer with a first port 50, instructions, col 5 lines 64-col 6 line 15, Fig 4A], providing on the instrument a second port for receiving said at least one of instructions [Goodman, pager or portable device received the instructions col 5 lines 64-col 6 line 15, Fig 4A; second port 180, Fig 2A], and data from the configuring computer,

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connecting said first port directly to said second port, transmitting said one of instructions and data to configure said instrument from said first port directly to said second port, receiving said one of instructions and data directly from said first port at said second port [Goodman, receive instructions from the host computer, col 6 lines 1-15; communication either directly or indirectly, col 5 lines 9-27]; and

configuring, said instrument according a to said one of instructions and data transmitted from said first port and received at said second port [Goodman, re-program the device, col 6 lines 1-42; customized patient program, col 8 lines 37-63, col 10 lines 36-60].

4. As per claim 2, Goodman discloses the step of providing a configuring computer having, a first port transmitting at least one of instructions and data for configuring the instrument comprise; the step of providing, a configuring computer having, a first port for transmitting, instructions for configuring the instrument [Goodman, the host computer with a first port, instructions, col 5 lines 64-col 6 line 15, Fig 4A].

5. As per claim 3, Goodman discloses the step of providing a configuring computer having a first port for transmitting at least one of instructions and data for configuring; the instrument comprises the step of providing a configuring computer having a first port for transmitting data for configuring the instrument [Goodman, the host computer with a first port, instructions, col 5 lines 64-col 6 line 15, Fig 4A].

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6. As per claim 4, Goodman discloses the step of providing a configuring computer having a first port for transmitting at least one of instructions and data for configuring the instrument comprises the step of providing a configuring computer having a first port for transmitting data for configuring the instrument [Goodman, the host computer with a first port, instructions, col 5 lines 64-col 6 line 15, Fig 4A].

7. As per claim 5, Goodman discloses the hand-held instrument further comprises a display for displaying information related to the determined concentration, the step of transmitting said one of instructions and data to configure said instrument from said first port comprising the step of transmitting said one of instructions and data from said first port to configure said display [Goodman, messaging device 20 and LCD display 21, Fig 2].

8. Claims 6,7 contains the similar limitations set forth of apparatus claim 5. Therefore, claims 6,7 are rejected for the similar rationale set forth in claim 5.

9. As per claim 8, Goodman discloses the step of transmitting one of instructions and data concerning determined concentration of a medical significant component of a body fluid from the second port to the first port [Goodman, blood glucose, col 7 line 38].

10. As per claim 9, Goodman discloses the step of transmitting one of instructions and data concerning determined concentration of a medical significant component of a

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bode fluid from the second port to the first port comprises the step of transmitting data concerning determined concentration of a medically significant component of a body fluid from the instrument to the computer [Goodman, blood glucose, col 7 line 38]

11. As per claim 10, Goodman discloses updating a file in the computer with the transmitted data [Goodman, updated, col 10 lines 37-60].

12. Claims 11-13;14-16 contain the similar limitations set forth of apparatus claims 8-10. Therefore, claims 11-13;14-16 are rejected for the similar rationale set forth in claims 8-10.

13. As per claim 17, Goodman discloses the step of transmitting one of instructions and data concerning determined concentration of a medically significant component of a body fluid from the second port to the first port [Goodman, blood glucose, col 7 line 38].

14. As per claim 18, Goodman discloses the step of transmitting one of instructions and data concerning, determined concentration or a medically significant component of a body fluid from the second port to the first port comprises the step of transmitting, data concerning determined concentration of a medically significant component of a body fluid from tile instrument to the computer [Goodman, medical device, col 7 lines 35-45].

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15. As per claim 19, Goodman discloses updating a tile in the computer with the transmitted data [Goodman, updated, col 10 lines 37-60].

16. Claims 20-22;23-25;26-28 contain the similar limitations set forth of apparatus claims 17-19. Therefore, claims 20-22;23-25;26-28 are rejected for the similar rationale set forth in claims 17-19.

17. As per claim 29, Goodman discloses the steps of transmitting said one of instructions and data to configure said instrument from said first port and receiving said one of instructions said data at said second port comprise transmitting, said one of instructions and data through a fiber optic coupler from said first port to said second port as inherent feature of a communication link or telephone line [Goodman, telephone line, col 8 lines 4].

18. As per claim 31, Goodman discloses the step of transmitting said one of instructions and data concerning determined concentration of a medical significant component of a body fluid from the second port to the first port comprises the step of transmitting said one of instructions and data concerning determined concentration of a medically significant component of a body fluid via a modem from the second port to the first port [Goodman, medical device, col 7 lines 35-45]].

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19. As per claims 30, 32, Goodman discloses the instrument comprises an instrument for determining the glucose concentration of blood, a blood fraction or a control [Goodman, blood glucose, col 7 line 38].

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Eggers et al [2002/0169636A1] (0070) ...received other configuration instructions from the physiological monitors via a wireless network.

-LaDue [5,889,474] ...receive configure command and instructions to be transmitted to the end user.

-Schulman et al [7,114,502 B2] (claim 19) ...transmitter for wireless transmission of command data signals to devices.

-Tavori [5,724,025] ...downloading instructions set to device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thong Vu*, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 6:00AM- 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Lynn Feild*, can be reached at (571) 272-2092. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thong Vu
Primary Examiner



THONG VU
PRIMARY PATENT EXAMINER